

**Submission for the Purposes of Discussion Re: 10/612,270 on 2 May 2005**

The Applicant is of the view that independent claims 1, 27, 42 and 47 distinguish the prior art (US Patent No. 5,383,816 (Marcello et al.) and US Patent No. 2,052,315 (Riesner)) cited in the 2 March 2005 Office Action. More particularly, the Applicant's claimed vent incorporates:

- a base member with a mounting flange that is shaped to extend between an interior building surface layer and one or more external building surface layers; and
- a vent cover which is removably mountable to the base member when the mounting flange is extending between the interior building surface layer and the one or more external building surface layers.

These features are shown most effectively in Figures 10 and 11 of this application (copies of which are enclosed and annotated for convenience). Figure 10 shows the base member (14) with its peripherally extending mounting flange (34). Figure 11 shows base member (14) mounted within a wall, such that the mounting flange extends between an interior wall surface (22A) and an external wall surface (22B). Figure 11 also shows a vent cover (12) that is removably mounted to the base member when the mounting flange is extending between the interior and external building surface layers.

Independent claims 1 and 47 are presented for the purposes of discussion. Underlining has been added to highlight certain features.

**Claim 1 (as amended 6 January 2005)**

1. A vent, which together with one or more building apertures, provides a route for gas flow through a building surface, the vent comprising:
  - a base member having a vent aperture through a surface thereof, the base member comprising a generally planar mounting flange on at least a portion of a perimeter thereof for mounting the base member within a building surface such that the vent aperture is in fluid communication with the one or more building apertures, the mounting flange shaped to permit at least a portion of the mounting flange to extend between an internal building surface layer and one or more external building surface layers; and
  - a vent cover which is removably mountable to the base member when the base member is mounted within a building surface and the portion of the mounting flange extends between the internal building surface layer and the one or more external building surface layers, the vent cover comprising a hood member which, when the vent cover is mounted on the base member, projects downwardly and outwardly from the base member for conveying moisture away from the vent aperture.

Claim 47 (as originally filed 3 July 2003)

47. A method for installing a vent within a building surface to provide fluid communication through one or more building apertures in the building surface, the method comprising:  
mounting a base member to an internal building surface layer such that a vent aperture in the base member is in fluid communication with the one or more building apertures  
after mounting the base member, installing one or more external building surface layers onto the internal building surface layer, such that the one or more external building surface layers overlap a portion of the base member; and  
after installing one or more external building surface layers, removably mounting a vent cover to the base member, the vent cover extending downwardly and outwardly from above the vent aperture to a location that is outside of the outermost one of the one or more external building surface layers.

US Patent No. 5,383,816 (Marcello et al.)

The Applicant encloses Figures 1 and 2 and columns 3 and 4 of Marcello et al. and has annotated these enclosures to emphasize differences between Marcello et al. and the claimed invention.

As shown in Figures 1 and 2, Marcello et al. describes an exhaust box used to ventilate rooms within a building to the external environment. The exhaust box has a main body portion (30) with an interior end (32) and an exterior end (34). The exhaust box is adapted for mounting to the outside of the wall structure of a building. A flange portion (52) of the Marcello et al. exhaust box extends radially outwardly from the main body portion (30) adjacent the outer surface (23) of the wall structure. A removably attachable rain grill (60) fits over the exterior end (34) of main body portion (30) and flange portion (52) to preclude the entry of rain into the exhaust box.

The 2 March 2005 Office Action states that Marcello et al. shows all the features of claims 1 and 47. This statement is incorrect. The Marcello et al. mounting flange (52) does not extend between an interior layer and one or more external layers of a building surface as claimed. In contrast, as shown in Figure 2 and explained in the accompanying description at column 4, lines 24-26, Marcello et al. specifically teaches that "[t]he flange portion 52 is adapted to interface with the outer surface 23 of the wall structure 22 ...". As shown in Figures 1 and 2, the Marcello et al. vent incorporates a removably attachable rain grill (60) which is located immediately outside of flange portion (52) and is radially co-extensive with flange portion (52). Because of the location of the Marcello et al. rain grill (60), there is no room for any external building surface layer(s) to overlap flange (52).

Based on this reasoning, the underlined features of independent claims 1 and 47 (as set out above) are submitted to patentably distinguish Marcello et al.

US Patent No. 2,052,315 (Riesner)

Riesner fails to remedy the aforementioned deficiencies with Marcello et al. Accordingly, claims 1 and 47 are submitted to patentably distinguish the combination of Marcello et al. and Riesner

Request for Reconsideration of Finality of 2 March 2005 Office Action

The claims presented above were of record prior to the 2 March 2005 Office Action and appear to distinguish the prior art. For this reason and in view of the comments presented above, the Applicant respectfully requests that the Examiner reconsider the finality of the 2 March 2005 Office Action.

## APPLICANT'S VENT

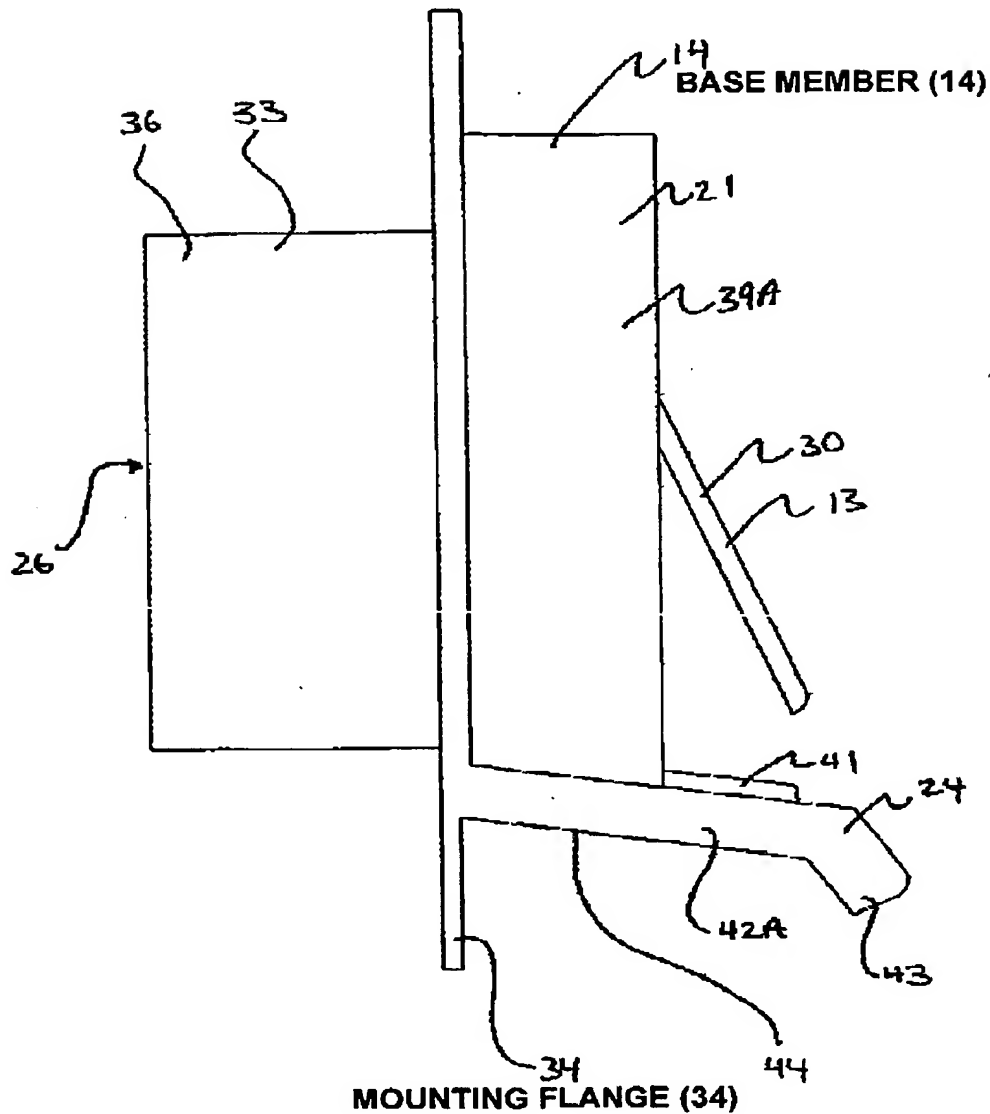


FIGURE 10

**FOR DISCUSSION  
PURPOSES - DO NOT ENTER**

# **APPLICANT'S VENT**

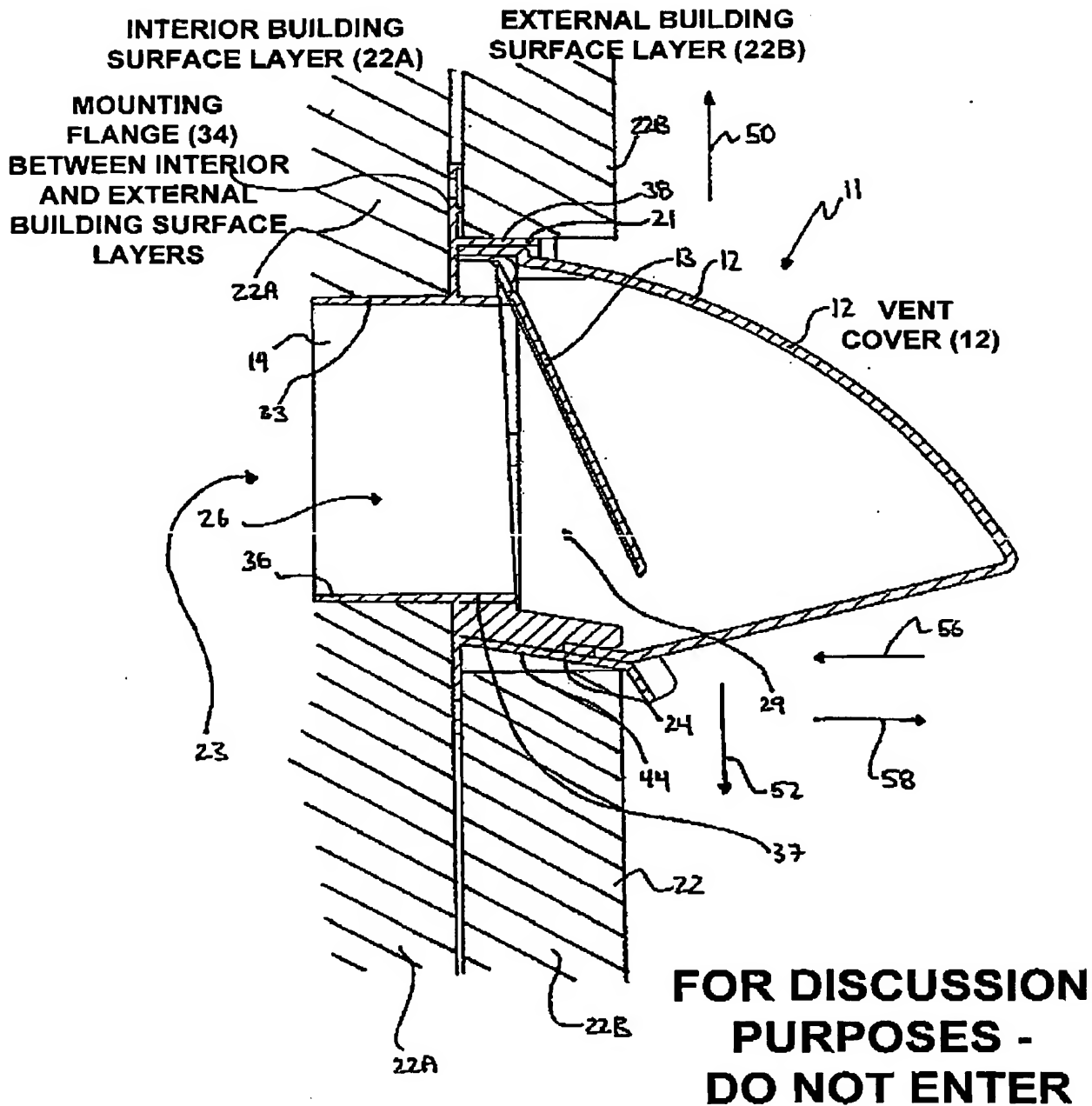
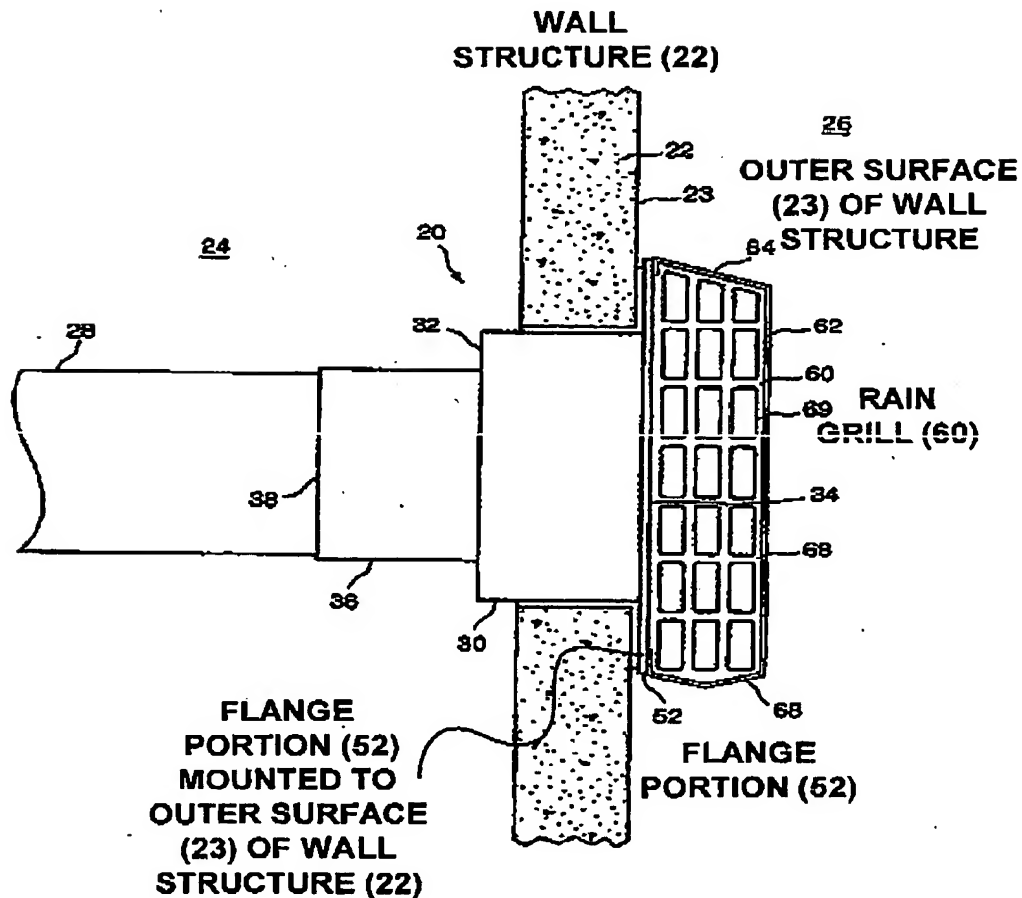


FIGURE 11

**PRIOR ART****U.S. Patent**

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**5,383,816****FIG 1**

**FOR DISCUSSION  
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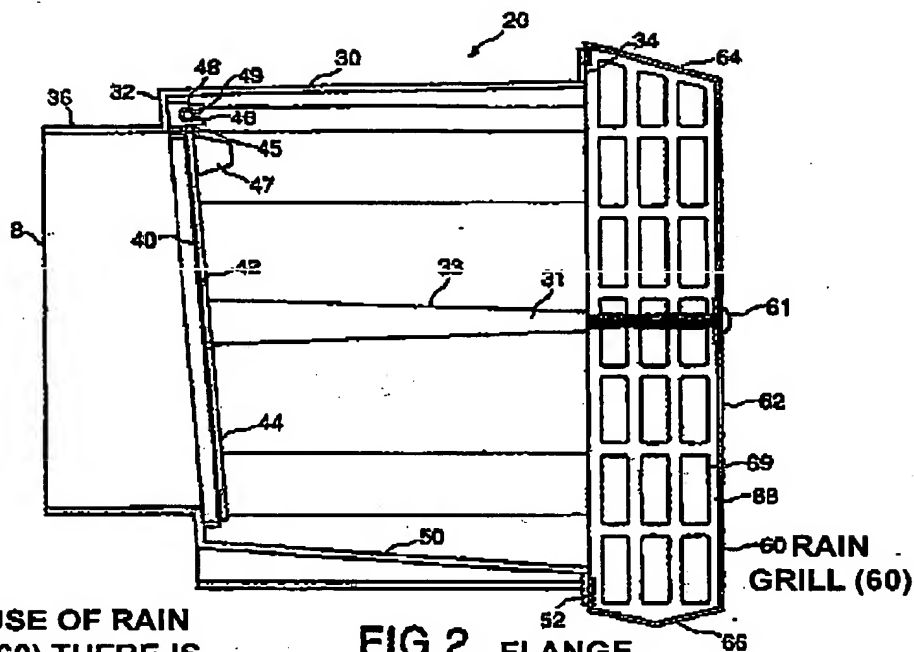
# PRIOR ART

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5,383,816



BECAUSE OF RAIN  
GRILL (60) THERE IS  
NO ROOM FOR  
BUILDING SURFACE  
LAYER(S)  
EXTERNAL TO  
FLANGE  
PORTION (52)

**FIG 2** FLANGE  
PORTION (52)

**FOR DISCUSSION  
PURPOSES - DO NOT ENTER**

# PRIOR ART

5,383,816

3 main body portion being adapted to fit into a wall structure such that the interior end is disposed toward the interior of the building defined by the wall structure and the exterior end is disposed toward the exterior of the building defined by the wall structure. An inlet portion extends outwardly from the interior end of the main body portion and is adapted to receive an exhaust duct in generally sealed relation thereto. The inlet portion has a first end terminating exteriorly to the main body portion and a second end terminating interiorly to the main body portion in a damper member receiving surface. A flange portion extends radially outwardly from the exterior end of the main body portion, the flange portion being adapted to interface with the wall structure so as to help retain the exhaust box in place within the wall structure. The main body portion has a sloped bottom portion that is sloped downwardly from the interior end to the exterior end and is thereby adapted to cause water thereon to flow toward the exterior end of the main body portion. A damper member is pivotally attached to the exhaust box such that the damper member is gravity biased into contact with the receiving surface, wherein the receiving surface is adapted to receive the damper member thereagainst so as to substantially preclude the inlet portion from being in fluid communication with the main body portion of the exhaust box. A rain screen grill extends outwardly from the exterior end of the main body portion, wherein the rain screen grill has a generally solid front plate, a generally solid top plate, a bottom plate, and a pair of perforated side plates.

## DESCRIPTION OF THE DRAWINGS

Embodiments of the present invention will now be described by way of the accompanying drawings, in which:

FIG. 1 is a side view of the exhaust box of the present invention installed in a wall structure, with the wall structure shown in sectional view;

FIG. 2 is a cross-sectional side view of the exhaust box of FIG. 1;

FIG. 3 is a front end view of the exhaust box of FIG. 1 with the damper member removed;

FIG. 4 is a back end view of the exhaust box of FIG. 1, with the damper member removed;

FIG. 5 is a bottom view of the grill portion of the exhaust box of FIG. 1;

FIG. 6 is a plan view of the damper member; and

FIG. 7 is a side view of an alternative embodiment of the present invention installed in a wall structure, with the wall structure shown in section view.

## DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS

Reference will now be made to FIG. 1, which shows the exhaust box 20 installed within a wall structure 22. The wall structure 22 separates the interior 24 of a structure from the exterior ambient surroundings 26. An exhaust duct 28 is connected in generally sealed relation to the exhaust box 20 as will be described in greater detail subsequently.

The exhaust box 20 has a generally rectangular main body portion 30, which in turn has four opposed wall members 30a, 30b, 30c, and 30d. The main body portion 30 is adapted to fit into a co-operating opening in the wall structure 22. When the exhaust box 20 is in place in the wall structure 22, the interior end 32 of the main body portion 30 is disposed toward the interior 24 of the

building defined by the wall structure 22 and the exterior end 34 of the main body portion 30 is disposed toward the exterior 26 of the building defined by the wall structure 22.

Extending outwardly from the interior end 24 of the main body portion 30 is an inlet portion 36. This inlet portion 36 is adapted to receive the exhaust duct 28 in generally sealed relation thereto. Preferably, the main body portion 30 and the inlet portion 36 are one integral piece, and are preferably made from a plastic such as polypropylene. The inlet portion 36 is adapted to receive the exhaust duct 28 attached in generally sealed relation thereto.

The inlet portion 36 has a first end 38 that terminates anteriorly to the exhaust box housing, typically within the interior 24 of the building defined by the wall structure 22, and also has a second end 40 that terminates interiorly to the main body portion 30 in a damper member receiving surface 42. The damper member receiving surface 42 is sloped so as to face slightly upwardly at an angle of about 5° with respect to vertical, so that the damper member 44 can more readily rest against it.

A flange portion 52 extends radially outwardly from the exterior end 34 of the main body portion 30. The flange portion 52 is adapted to interface with the outer surface 23 of the wall structure 22 so as to help retain the exhaust box 20 in place within the wall structure 22. Further, normal sealing techniques with caulking or the like, which techniques are well known in the construction industry, are used to properly seal and retain the exhaust box 20 in place within the wall structure 22.

The main body portion 30 has a sloped bottom portion 50 that is sloped downwardly at an angle of about 4° with respect to horizontal from the interior end 24 to the exterior end 34. The sloped bottom portion is thereby adapted to cause any water thereon to flow toward the exterior end 34 of the main body portion 30, so as to ultimately exit the main body portion 30 and ultimately exit the exhaust box 20.

A generally circularly shaped damper member 44 is pivotally attached to the exhaust box 20, preferably at the interior of the main body portion 30, by way of a pair of pivot members 46, which are coaxially aligned with one another and which extend outwardly from the base portion 45 of the damper member 44. The pivot members 46 are received in pivotal relation in a co-operating pair of support members 48, each of which have an aperture 49 located therein, which apertures 49 are slightly larger in diameter than a diameter of the pivot members 46. The receiving surface 42 is adapted to receive the damper member 44 thereagainst in partially sealed relation thereto so as to substantially preclude the inlet portion 36 from being in fluid communication with the main body portion 30 of the exhaust box housing 20. The damper member 44 is gravity biased into contact with the receiving surface 42 by virtue of the fact that the pivot members 46 are offset rearwardly with respect to the center plane of the generally planar damper member 44 and also due to the placement of the apertures 49 in the support members 48 and also due to the slightly upward orientation of the damper member receiving surface 42. The damper member 44 may include a plurality of radially extending reinforcing ribs 43, which are preferably generally evenly spaced around the damper member 44. There is also a rib 47 that is adapted for contact with the main body portion 30 of the exhaust box 20, to thereby preclude the damper from opening too far. While the rib 47 is in-

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